


EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		Charge Presented To: <i>Amended</i> Agency(ies) Charge No(s): <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC <i>532-2019-00138</i>	
_____ State or local Agency, if any		and EEOC	
Name (indicate Mr., Ms., Mrs.) Mr. Tom Lugo on behalf of myself and all others similarly situated		Home Phone (incl. Area Code) (216) 215-5093	Date of Birth 8/14/1972
Street Address 2575 Twelve Oaks Cir.		City, State and ZIP Code Medina, Ohio 44256	
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name City of Cleveland (Division of Fire)		No. Employees, Members 100+	Phone No. (Include Area Code)
Street Address 601 Lakeside Ave.		City, State and ZIP Code Cleveland, OH 44114	
Name		No. Employees, Members	Phone No. (Include Area Code)
Street Address		City, State and ZIP Code	
DISCRIMINATION BASED ON (Check appropriate box(es).) <input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input checked="" type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify)		DATE(S) DISCRIMINATION TOOK PLACE Earliest Latest Feb. 2, 2018 <input checked="" type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): <p>I am a Hispanic male, and have been employed by Respondent's Division of Fire since 1997. Currently I hold the rank of Fire Lieutenant. In 2017, Respondent administered, and I sat for, a promotional examination for the rank of Captain in the Fire Department. On February 2, 2018, Respondent released a ranked list of all 52 candidates who had passed the Captain's exam. Respondent will utilize this list to make promotions to the Captain rank for a 2-year period (until February 2, 2020). The list evidences that the promotional exam resulted in a discriminatory disparate impact against Hispanic individuals, including myself, who seek promotion.</p>			
CONTINUED ON NEXT PAGE		<div style="border: 2px solid black; padding: 10px; width: fit-content; margin: 0 auto;"> RECEIVED OCT 25 2018 EEOC-CLFO </div>	
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY – When necessary for State and Local Agency Requirements	
I declare under penalty of perjury that the above is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT	
<div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="text-align: center;"> <i>10-19-18</i> _____ Date </div> <div style="text-align: center;">  _____ Charging Party Signature </div> </div>		SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)	

EEOC Form 5 (11/09)

EXHIBIT**16**

038

LUGO_000038

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

☐ FEPA
☒ EEOC

and EEOC

State or local Agency, if any

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

CONTINUED FROM PREVIOUS PAGE (PAGE 2 OF 2)

73 individuals took all parts of the Captain's exam. The following table shows how many individuals, by race and/or national origin, took the entire exam, passed the exam, and how the passage rates for Hispanics violated the four-fifths rule:

RACE OR NATIONAL ORIGIN	TOOK ENTIRE EXAM	%	PASSED EXAM	%	PASS RATE	FOUR-FIFTHS RULE TEST
Caucasian	53	72.60%	36	49.32%	67.92%	
African-American	14	19.18%	13	17.81%	92.86%	
Hispanic	6	8.22%	3	4.11%	50.00%	53.85% vs. African-Americans 73.61% vs. Caucasians (FAIL)
TOTAL	73		52			

Because Hispanics passed the exam at a rate of less than 80% when compared to the pass rate of African-Americans, the Captain's exam had a disparate impact on me and other Hispanics based on our race and/or national origin. Two rounds of promotions have occurred off of the list to date. Respondent promoted six (6) individuals to Captain on or about May 4, 2018, and then promoted another eight (8) individuals on or about July 28, 2018. The selections to date also demonstrate an adverse impact against Hispanics:

RACE OR NATIONAL ORIGIN	PROMOTIONS	SELECTION RATE	FOUR-FIFTHS RULE TEST
Caucasian	8	15.09%	
African-American	6	42.86%	
Hispanic	0	0.00%	0.00% (FAIL)
TOTAL	14		

RECEIVED

OCT 25 2018

EEOC-CLFO

Respondent has expressed a desire to increase minority representation in the officer rankings within the Division of Fire. I believe that Respondent unlawfully administered the promotional examination in a manner that would achieve its desired result of having a list of disproportionately high-ranked African-American candidates to select for promotion over the two-year duration that the promotional list will be viable.

I believe that I, along with others who are similarly situated, have been discriminated against in violation of Title VII of the Civil Rights Act of 1964, as amended. This discrimination is a result of disparate impact and/or intentional discrimination in the administration of the Captain's promotional exam.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

NOTARY – When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

10-19-18




Date

Charging Party Signature

039

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION <small>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</small>		Charge Presented To: _____ Agency(ies) Charge No(s): _____ <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC 532-2019-00138	
and EEOC			
<i>State or local Agency, if any</i>			
Name (indicate Mr., Ms., Mrs.) Mr. Tom Lugo on behalf of myself and all others similarly situated		Home Phone (incl. Area Code) (216) 215-5093	Date of Birth 8/14/1972
Street Address 2575 Twelve Oaks Cir.		City, State and ZIP Code Medina, Ohio 44256	
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name City of Cleveland (Division of Fire)		No. Employees, Members 100+	Phone No. (Include Area Code)
Street Address 601 Lakeside Ave.		City, State and ZIP Code Cleveland, OH 44114	
Name		No. Employees, Members	Phone No. (Include Area Code)
Street Address		City, State and ZIP Code	
DISCRIMINATION BASED ON (Check appropriate box(es).) <input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify)		DATE(S) DISCRIMINATION TOOK PLACE Earliest Latest Feb. 2, 2018 <input checked="" type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):			
<p>I am a Hispanic male, and have been employed by Respondent's Division of Fire since 1997. Currently I hold the rank of Fire Lieutenant. In 2017, Respondent administered, and I sat for, a promotional examination for the rank of Captain in the Fire Department. On February 2, 2018, Respondent released a ranked list of all 52 candidates who had passed the Captain's exam. Respondent will utilize this list to make promotions to the Captain rank for a 2-year period (until February 2, 2020). The list evidences that the promotional exam resulted in a discriminatory disparate impact against Hispanic individuals, including myself, who seek promotion.</p>			
<div style="border: 1px solid black; padding: 10px; display: inline-block;"> RECEIVED OCT 17 2018 EEOC-CLFO </div>			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures. I declare under penalty of perjury that the above is true and correct.		NOTARY - When necessary for State and Local Agency Requirements I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)	
<div style="display: flex; justify-content: space-between;"> <div style="text-align: center;"> 10-17-18 Date </div> <div style="text-align: center;">  Charging Party Signature </div> </div>			

EEOC Form 5 (11/09)

040

LUGO_000040

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):



FEPA



EEOC

532-2019-00138

and EEOC

State or local Agency, if any

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

CONTINUED FROM PREVIOUS PAGE (PAGE 2 OF 2)

73 individuals took all parts of the Captain's exam. The following table shows how many individuals, by race, took the entire exam, passed the exam, and how the passage rates for Hispanics violated the four-fifths rule:

RACE	TOOK ENTIRE EXAM	%	PASSED EXAM	%	PASS RATE	FOUR-FIFTHS RULE TEST
Caucasian	53	72.60%	36	49.32%	67.92%	
African-American	14	19.18%	13	17.81%	92.86%	
Hispanic	6	8.22%	3	4.11%	50.00%	53.85% vs. African-Americans 73.61% vs. Caucasians (FAIL)
TOTAL	73		52			

Because Hispanics passed the exam at a rate of less than 80% when compared to the pass rate of African-Americans, the Captain's exam had a disparate impact on me and other Hispanics based on our race.

Two rounds of promotions have occurred off of the list to date. Respondent promoted six (6) individuals to Captain on or about May 4, 2018, and then promoted another eight (8) individuals on or about July 28, 2018. The selections to date also demonstrate an adverse impact against Hispanics:

RACE	PROMOTIONS	SELECTION RATE	FOUR-FIFTHS RULE TEST
Caucasian	8	15.09%	
African-American	6	42.86%	
Hispanic	0	0.00%	0.00% (FAIL)
TOTAL	14		

Respondent has expressed a desire to increase minority representation in the officer rankings within the Division of Fire. I believe that Respondent unlawfully administered the promotional examination in a manner that would achieve its desired result of having a list of disproportionately high-ranked African-American candidates to select for promotion over the two-year duration that the promotional list will be viable.

I believe that I, along with others who are similarly situated, have been discriminated against in violation of Title VII of the Civil Rights Act of 1964, as amended. This discrimination is a result of disparate impact and/or intentional discrimination in the administration of the Captain's promotional exam.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

10-17-18

Date

Charging Party Signature

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

RECEIVED

OCT 17 2018

EEOC 06600041

041

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):



FEPA



EEOC

532-2019-00141

and EEOC

State or local Agency, if any

Name (Indicate Mr., Ms., Mrs.)

John D See on behalf of myself and all others similarly situated

Home Phone (Incl. Area Code)

(216)533-8216

Date of Birth

2/18/1972

Street Address

12918 Old State Road

City, State and ZIP Code

Huntsburg, Ohio 44046

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

City of Cleveland (Division of Fire)

No. Employees, Members

100+

Phone No. (Include Area Code)

Street Address

601 Lakeside Ave.

City, State and ZIP Code

Cleveland, OH 44114

Name

No. Employees, Members

Phone No. (Include Area Code)

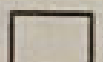
Street Address

City, State and ZIP Code

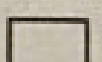
DISCRIMINATION BASED ON (Check appropriate box(es).)



RACE



COLOR



SEX



RELIGION



NATIONAL ORIGIN



RETALIATION



AGE



DISABILITY



GENETIC INFORMATION



OTHER (Specify)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

Feb. 2, 2018



CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)).

I am a Hispanic male, and have been employed by Respondent's Division of Fire since 1993. Currently I hold the rank of Fire Lieutenant. In 2017, Respondent administered, and I sat for, a promotional examination for the rank of Captain in the Fire Department. On February 2, 2018, Respondent released a ranked list of all 52 candidates who had passed the Captain's exam. Respondent will utilize this list to make promotions to the Captain rank for a 2-year period (until February 2, 2020). The list evidences that the promotional exam resulted in a discriminatory disparate impact against Hispanic individuals, including myself, who seek promotion.

CONTINUED ON NEXT PAGE

RECEIVED

OCT 17 2018

EEOC-CLFO

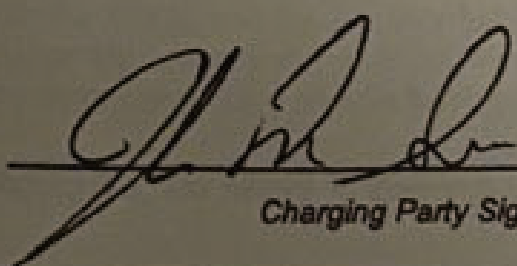
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

Date

10/17/18

Charging Party Signature



NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

SEE_000001

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):



FEPA



EEOC

532-2019-00141

and EEOC

State or local Agency, if any

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

CONTINUED FROM PREVIOUS PAGE (PAGE 2 OF 2)

73 individuals took all parts of the Captain's exam. The following table shows how many individuals, by race, took the entire exam, passed the exam, and how the passage rates for Hispanics violated the four-fifths rule:

RACE	TOOK ENTIRE EXAM	%	PASSED EXAM	%	PASS RATE	FOUR-FIFTHS RULE TEST
Caucasian	53	72.60%	36	49.32%	67.92%	
African-American	14	19.18%	13	17.81%	92.86%	
Hispanic	6	8.22%	3	4.11%	50.00%	53.85% vs. African-Americans 73.61% vs. Caucasians (FAIL)
TOTAL	73		52			

Because Hispanics passed the exam at a rate of less than 80% when compared to the pass rate of African-Americans, the Captain's exam had a disparate impact on me and other Hispanics based on our race.

Two rounds of promotions have occurred off of the list to date. Respondent promoted six (6) individuals to Captain on or about May 4, 2018, and then promoted another eight (8) individuals on or about July 28, 2018. The selections to date also demonstrate an adverse impact against Hispanics:

RACE	PROMOTIONS	SELECTION RATE	FOUR-FIFTHS RULE TEST
Caucasian	8	15.09%	
African-American	6	42.86%	
Hispanic	0	0.00%	0.00% (FAIL)
TOTAL	14		

RECEIVED

OCT 17 2018

EEOC-CLFO

Respondent has expressed a desire to increase minority representation in the officer rankings within the Division of Fire. I believe that Respondent unlawfully administered the promotional examination in a manner that would achieve its desired result of having a list of disproportionately high-ranked African-American candidates to select for promotion over the two-year duration that the promotional list will be viable.

I believe that I, along with others who are similarly situated, have been discriminated against in violation of Title VII of the Civil Rights Act of 1964, as amended. This discrimination is a result of disparate impact and/or intentional discrimination in the administration of the Captain's promotional exam.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

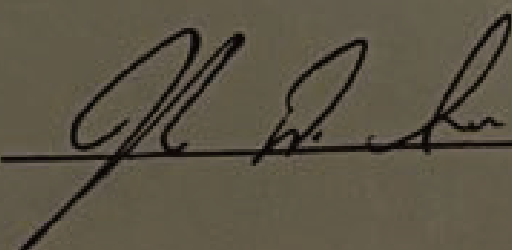
NOTARY – When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

10/17/18



SEE 000002